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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,406	03/12/2001	James W. Forbes	5699-32	1123

21324            7590            06/18/2002  
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EXAMINER
JULES, FRANTZ F

ART UNIT	PAPER NUMBER
3617	#9

DATE MAILED: 06/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	09/804,406	Applicant(s)	FORBES, JAMES W.
Examiner	Frantz F. Jules	Art Unit	3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 20 May 2002.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-12, 14-24, 27-33, 35-55 and 57-63 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 9-12, 15-24, 27-33, 35-51 and 57-63 is/are allowed.

6) Claim(s) 1-8, 14 and 52-55 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-5, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dominguez et al.

Claims 1- 5, 8

Dominguez et al teach all the limitations of claims 1-5, 8 except for a center beam railroad car having a medial portion of the deck structure being stepped downward by a distance of at least 30 inches. The general concept of providing a load carrying structure of a vehicle with a medial portion that is stepped downwardly falls within the realm of common knowledge and has been classified as obvious design expediency. Using a medial depth portion of a deck structure being stepped downward by a distance of at least 30 inches is an obvious design choice. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dominguez et al to include the use of a medial portion of the deck structure being stepped downward by a distance of at least 30 inches in his advantageous center beam railroad car in order to maximize design efficiency of the railroad car in terms of maximum load loading height permissible by established standard.

3. Claims 6, 7, 14, 52-55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dominguez et al in view of Landregan et al.

Claims 6, 52-55

Dominguez et al teach all the limitations of claims 6, 52-55 except for a center beam railroad car having a center sill including a web separator plate. The general concept of providing a center sill member with a web separator plate is well known it the art as illustrated by Landregan et al, see fig.6, item No. 156. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dominguez et al to include the use of a web separator plate in his advantageous center sill member of his railroad car as taught by Landregan et al in order to prevent deflection in the center sill assembly.

Claims 7, 14

Dominguez et al teach all the limitations of claims 7, 14 except for a center beam railroad car having a foothold mounted to stepped bulkhead at the end of the deck. The general concept of providing a foothold mounted to stepped bulkhead at the end of the deck is well known it the art as illustrated by Landregan et al, see figs. 1-2. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dominguez et al to include the use of a foothold mounted to stepped bulkhead at the end of the deck in his advantageous center sill member of his railroad car as taught by Landregan et al in order to prevent personnel injury while accessing the railroad car.

***Allowable Subject Matter***

4. Claims 9-12, 15-24, 27-33, 35-51, 57-63 stand allowable.

***Response to Arguments***

5. Applicant's arguments filed 05/20/02 have been fully considered but they are moot in view of the new grounds of rejection and the allowance of claims 9-12, 15-24, 27-33, 35-51, 57-63.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Klag is cited to show a related rail road car having a drop center structure with a hollow box center sill member including cap plate.

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O'Neill et al are cited to show a related rail car having center sill member with wider section at the end than at the center.

Forbes is cited to show a related rail car having ladder rung in side sill members.

Miller et al are cited to show a related rail car having center sill members with a cap plate.

Saxton is cited to show a related rail road car having box or tubular members in the upper assembly.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 308-8780. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 308-0230. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Frantz F. Jules  
Examiner  
Art Unit 3617

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June 16, 2002



S. JOSEPH MORANO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600